

# Exhibit C

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
In Re: :  
REFCO, INC., et al, : Case No. 05-60006  
: One Bowling Green  
Debtors. : New York, NY  
February 14, 2006  
-----X

TRANSCRIPT OF TRIAL  
BEFORE THE HONORABLE ROBERT D. DRAIN  
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

For the Debtors: ANTHONY W. CLARK, ESQ.  
SKADDEN, ARPS, SLATE, MEAGHER  
& FLOM, LLP  
One Rodney Square, P.O. Box 636  
Wilmington, DE

GRENVILLE R. DAY, ESQ.  
SKADDEN, ARPS, SLATE, MEAGHER  
& FLOM, LLP  
Four Times Square  
New York, NY 10036

For the Movants: THOMAS J. MOLONEY, ESQ.  
CLEARY GOTTLIEB STEEN  
& HAMILTON LLP  
One Liberty Plaza  
New York, NY 10006

For Josephina Franco  
Siller: JAMES W. GIDDENS, ESQ.  
HUGHES HUBBARD & REED LLP  
One Battery Park Plaza  
New York, NY 10004

Proceedings recorded by electronic sound recording,  
transcript produced by transcription service.

1 UNITED STATES BANKRUPTCY COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3  
4 For Capital Management DANIEL M. LITT, ESQ.  
Select Fund, Ltd.: DICKSTEIN SHAPIRO MORIN  
5 & OSHINSKY LLP  
2101 L Street, N.W.  
6 Washington, DC 20037

7  
8 Court Transcriber: TRACY A. GEGENHEIMER, CERT\*D-282  
9 TypeWrite Word Processing Service  
356 Eltingville Boulevard  
10 Staten Island, NY 10312

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX

<u>Witness</u>	Direct	Cross	Redirect	Recross
Richard Deitz	65	154		

Deitz - Cross

174

1 Q Let's look at the 2001 audited financial statements. I  
2 don't have a Bates number for you but it should be somewhere in  
3 that stack I think in reverse chronological order. Do you --  
4 this is the consolidated financial statements as of February  
5 28, 2001.

6 THE COURT: It's the black binder, right?

7 MR. CLARK: It's my exhibits, my questions, my  
8 exhibits.

9 MR. ROSSMAN: Your Honor, my exhibit doesn't have a  
10 Bates numbers on it.

11 MR. CLARK: Mine doesn't either.

12 MR. ROSSMAN: Mr. Clark, was it produced?

13 MR. CLARK: Yes, it was but I don't have the Bates  
14 stamp ones and if there's any question as to authenticity as  
15 we've all agreed we can clear it up during the break.

16 MR. ROSSMAN: Just wanted to know if you got it.

17 BY MR. CLARK:

18 Q So you got the February 2001 financial statements, Mr.  
19 Deitz?

20 A Yes.

21 Q You made the point that when you entered into your  
22 business arrangements with Refco Capital Markets you understood  
23 them to be an unregistered, unregulated Bermuda broker dealer;  
24 right? That's what they were.

25 A I said that.

Deitz - Cross

177

1 1999 either?

2 A I don't believe they were provided to me.

3 Q So you didn't look at them?

4 A That would be the implication, yes.

5 Q Right. It's easy. I'll ask the question --

6 THE COURT: Come on, Mr. Clark. Please.

7 Q Now, you also -- we'll come back to that. You can put  
8 that to one side.

9 You, did you not before you entered into business with  
10 Refco Capital Markets that it had an affiliate by the name of  
11 Refco Securities LLC; is that true?

12 A We were told that, yes.

13 Q Were you told what that entity was?

14 A We were told that it was a U.S. -- we were told it was a --  
15 - Refco Securities LLC was a U.S. regulated broker dealer and  
16 that Refco Capital Markets was a Bermuda broker dealer non-  
17 regulated.

18 Q But you never were told that before you entered into the  
19 first contract in a document, were you? You didn't get a piece  
20 of paper from somebody that said we're a broker dealer, Refco  
21 Capital Markets is a broker dealer? You did not obtain a piece  
22 of paper --

23 A I got a securities account from a broker dealer. What can  
24 I say?

25 Q Well, you can answer my question.

Deitz - Cross

196

1 Q Correct it.

2 A It's on the record. I think we've seen it. There's a  
3 customer agreement, a single customer agreement which a tri-  
4 party agreement. You -- that it's two separate agreements but  
5 I think it's actually one agreement.

6 Q I'm not trying to -- anything. I'm trying to understand.  
7 Did you open an account -- let us go to your -- did you open an  
8 account at Refco LLC?

9 A Refco LLC, I believe so.

10 Q What -- for edification, what did you understand Refco LLC  
11 to be when you opened that account?

12 A It was a futures commission [inaudible].

13 Q Registered and regulated as such?

14 A Yes.

15 Q Now, Refco Securities, part of this tri-part agreement  
16 when you entered into this agreement in September 2001, you  
17 understood that Refco Securities was what?

18 A It was a U.S. broker dealer.

19 Q Registered, regulated?

20 A Yes.

21 Q And then RCM, you understood, wasn't an U.S. registered or  
22 regulated broker dealer when you entered into the agreement;  
23 right?

24 A I think --

25 Q Right?

Deitz - Cross

197

1 A Yes.

2 Q And your understanding of Refco Capital Markets in that  
3 regard never changed, did -- you always understood it to be an  
4 unregulated unregistered entity; right?

5 A Correct.

6 Q Now, you said that prior to coming to Refco you had used  
7 Bank of Bermuda for clearing settlement custody services;  
8 right?

9 A Correct.

10 Q You wanted to change because Bank of Bermuda didn't  
11 provide satisfactory services; is that fair?

12 A We were unsatisfied with the level of services we were  
13 getting.

14 Q Among other things you said, I believe, that there were  
15 numerous settlement failures in your transactions with Bank of  
16 Bermuda; correct?

17 A When I say settlement failures, I did say that and let me  
18 explain what I --

19 Q That's my next question. Tell me what they have.

20 A I'd be happy to do so. When I say settlement failure what  
21 I mean for instance an instruction wasn't put in on time. So  
22 that a security -- if I traded with Merrill Lynch and it was  
23 supposed to settle into my Bank of Bermuda account if that  
24 instruction wasn't put into the Euroclear system from Bank of  
25 Bermuda's side then the transaction would fail and then we